

§ 34.9

his request as may be appropriate for the fulfillment of the Inspector's responsibilities under these regulations.

(d) *Review of affirmative action plan.*

(1) Applicants and their contractors and subcontractors which are required by paragraphs (a) and (b) of this section to submit affirmative action plans to the Federal Inspector for approval shall provide the Federal Inspector with the following information at the time the affirmative action plan is submitted:

(i) A brief description of pending applications to any Federal agency for Federal financial assistance or the award of a government contract, as well as any Federal assistance being received, or any government contracts or subcontracts being performed;

(ii) Whether the applicant, contractor, or subcontractor has been the subject of a compliance review conducted by the Department of Labor pursuant to 41 CFR part 60-1 within the preceding twelve months;

(iii) Whether any Federal, State or local government agency has found the applicant, contractor, or subcontractor in non-compliance or has found reasonable cause to believe the applicant, contractor, or subcontractor is in violation of, or in non-compliance with, any civil rights requirements;

(iv) A description of the methods by which the applicant, contractor, or subcontractor will insure that its contractors and subcontractors comply with the provisions of the affirmative action plans during the term of the contracts;

(2) The Federal Inspector shall consider conducting an on-site review before the award of any Federal authorizations, agreements to assign Federal authorizations, contracts or subcontracts under which substantial employment or procurement opportunities will be offered;

(3) The Federal Inspector will determine whether the affirmative action plans are adequate. If deficiencies are found to exist in a plan, the recipient, contractor, or subcontractor shall correct the deficiencies in consultation with the Federal Inspector. If deficiencies are not corrected to the satisfaction of the Federal Inspector, the Inspector may enforce compliance with

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this section through measures authorized by ANGTA or any other provision of law.

(4) Upon approval of the affirmative action plan—including the goals and timetables—of the applicants or recipients, the Federal Inspector shall publicize the goals and timetables which are approved for each segment. Notice should be sent to all parties who submitted comments to the Department of the Interior in response to the Notice of Proposed Rulemaking issued about these regulations on October 12, 1979 (44 FR 59096).

(5) The Federal Inspector may, upon request, grant exemptions from the requirements of paragraph (b) of this section to any bidder which can demonstrate that no significant employment opportunities will result from an award of a contract to the bidder.

§ 34.9 Compliance reporting.

(a) *Records, reports, and access to books.* Each recipient, contractor, or subcontractor to which these regulations apply shall submit to the Federal Inspector reports in the form and manner that the Federal Inspector determines to be necessary to insure compliance with the rules, regulations, and orders implementing section 17 and Condition 11 of the President's *Decision*.

(b) *Access to sources of information.* Each person to whom this part applies shall permit access by the Federal Inspector during normal business hours to books, records, accounts, and other sources of information, and to facilities, as the Federal Inspector determines to be necessary to insure compliance with the rules, regulations, and orders implementing section 17 and the President's *Decision*.

(c) *Failure to submit reports.* Failure to file timely, complete, and accurate reports, or failure to permit access to sources of information as required constitutes non-compliance with the Equal Opportunity Clause and with these regulations and, therefore, constitutes grounds for action by the Federal Inspector, recipient, contractor, or subcontractor to enforce compliance or levy sanctions as authorized by ANGTA, by the implementing rules, regulations, and orders thereunder, by

contractual agreement, or by any other means authorized by law.

(d) *Information for beneficiaries and participants.* Each recipient or other entity required to develop an affirmative action plan pursuant to these regulations shall make the plan available for inspection by employees, participants, beneficiaries, local, State, and Federal government officials, and members of the public upon request. A copy of the plan shall be maintained at each place of employment, and a notice posted at each such place to advise employees and members of the public that the plan is available for inspection upon request.

§ 34.10 Compliance reviews.

(a) *Periodic compliance procedures.* (1) The Federal Inspector will review the practices of recipients, contractors, or subcontractors, which offer significant opportunities for employment or procurement, to determine whether such recipient, contractor, or subcontractor are complying with its affirmative action plans and the rules, regulations, and orders implementing section 17 and Condition 11 of the President's *Decision*. The review will consist of a comprehensive analysis of all aspects of the recipient's, contractor's, or subcontractor's operations and practices and the conditions resulting therefrom. The review will include an on-site visit if the Federal Inspector determines that such a review is necessary.

(2) The Federal Inspector will continually monitor and verify the status of MBE's and FBE's through procedures as the Inspector may determine appropriate.

(b) *Complaints.* (1) Complaints alleging discrimination or non-compliance with affirmative action plans shall be filed with the Federal Inspector.

(2) A complaint must be filed within 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Federal Inspector for good cause shown.

(3) The complaint should include the name, address, and telephone number of the complainant; the name and address of the person alleged to have discriminated; a description of the alleged discriminatory acts; and any other pertinent information which will assist

the investigation and resolution of the complaint. The complaint should be signed by the complainant or his or her authorized representative.

(4) The filing of a complaint with the Federal Inspector shall not constitute the filing of a complaint pursuant to title VII of the Civil Rights Act of 1964 with the Equal Opportunity Commission unless, by agreement between the two agencies, the Federal Inspector and the Equal Employment Opportunity Commission so provide.

(c) *Investigations.* The Federal Inspector will make a prompt investigation whenever information indicates that a person may have failed to comply with section 17 or Condition 11 of the President's *Decision* or the implementing rules, regulations, or orders thereunder. The investigation should include, where appropriate, a review of the pertinent practices and policies of the person under investigation, the circumstances under which the possible noncompliance occurred, and other factors relevant to determine whether the person has failed to comply with section 17, Condition 11 of the President's *Decision*, or the implementing rules, regulations, and orders thereunder.

(d) *Resolution of complaints and investigations.* (1) In exercising the broad authority to enforce these regulations, the Federal Inspector shall, within 90 days of the effective date of these regulations, establish the procedures to be followed in enforcing these regulations. These regulations shall thereafter be amended to incorporate these procedures. The procedures shall, to the extent consistent with ANGTA, be similar to those proposed to be adopted by the Department of Energy to resolve complaints of violations of title VI of the Civil Rights Act of 1964. See regulations proposed to be codified at 10 CFR 1040.104, (Nov. 16, 1978). At a minimum the procedures must incorporate the following paragraphs (d) (2) through (5) of this section.

(2) The Federal Inspector will initiate action upon all complaints within 35 days of the date the complaint is filed with the Federal Inspector.

(3) If an investigation pursuant to paragraphs (a) through (c) of this section indicates probable non-compliance with section 17, Condition 11 of the